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November 1, 2021

VIA ECF

Honorable James L. Cott  
United States Magistrate Judge, S.D.N.Y.  
500 Pearl Street, Room 1360  
United States Court House  
New York, NY 10007

**Re: Tom Hussey Photography, LLC v. BDG Media, Inc.,**  
**Index No. 1:21-CV-3514-AT**

Dear Judge Cott:

This firm represents Plaintiff Tom Hussey Photography, LLC in the above-captioned action. This letter motion is jointly submitted with Defendant BDG Media, Inc. to request leave to take a deposition after the close of fact discovery, set for November 3, 2021.

Plaintiff wishes to take the deposition of Deb Schwartz, the former chief financial officer of Defendant and a non-party in this action. While the parties disagree regarding whether or not Ms. Schwartz was identified previously, she was identified in Defendant's Supplemental Answers and Objections to Plaintiff's First Set of Interrogatories, served on October 22, 2021.

Plaintiff's counsel served Ms. Schwartz on October 28, 2021 with a subpoena (c/o Defendant's counsel) for a deposition to be held on November 3, 2021. Defendant's counsel indicates that Ms. Schwartz is not available for a deposition until November 10, 2021. Pursuant to the Civil Case Management Plan and Scheduling Order in this matter (ECF Doc. 50), the deadline for fact discovery is November 3, 2021. In order to avoid a dispute concerning the appearance of Ms. Schwartz for deposition on November 3, 2021, the parties jointly request that the Court permit Ms. Schwartz's deposition to be taken after November 3, 2021, when Ms.

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Schwartz and counsel are mutually available for up to seven hours of testimony, if needed. The parties expect that will commence on or about November 10, 2021.

The parties have not previously made any requests to take depositions outside of the discovery period. The request will not affect any other dates on the schedule.

Respectfully Submitted,

/s/ Steven M. Cowley  
Steven M. Cowley  
Duane Morris LLP  
*Counsel for Plaintiff*

/s/ Eleanor Lackman  
Eleanor Lackman  
Mitchell, Silberberg & Knupp LLP  
*Counsel for Defendant*